

**NOTICE OF PUBLICATION OF PROPOSED  
LOCAL RULES AND REQUEST FOR PUBLIC  
COMMENT CONCERNING:**

**CONFIDENTIAL DOCUMENTS**

**AND**

**ELECTRONIC FILING OF COURT  
DOCUMENTS**

Notice is hereby given that the Superior Court of Lake County and the Lake Circuit Court have proposed the adoption of two new local rules of procedure. The two new local rules are attached to this notice.

Comment from members of the bar and public are requested, and should be sent to Martin Goldman, Court Administrator, 2293 N. Main St., Crown Point, IN 46307.

Comments by the bar and public will be received until July 1, 2007. The proposed rules will be adopted, modified, or rejected by July 31, 2007.

The effective date of the new local rules shall be January 1, 2008.

L.R.45-A.R.9(G)(1)-16. Confidential Information and Sealed Documents.

Pursuant to Trial Rule 81, the Superior Court of Lake County and the Lake Circuit Court hereby adopt this rule regarding the filing and retention of documents containing information which is excluded from public access under Administrative Rule 9 or which are governed by an order for the sealing of records.

A. Cases Subject to Rule for Electronic Filing and Service.

1. Documents containing information excluded from public access pursuant to Administrative Rule 9, or documents which are ordered to be filed under seal shall be filed electronically, pursuant to L.R.45-A.R.16-17(D)(9), whenever possible, along with a copy of the applicable order to seal the records, and the filer shall designate the documents as “Not for Public Access Pursuant to Administrative Rule 9(G)(1)” at the time of filing.

2. Documents containing information excluded from public access pursuant to Administrative Rule 9, or documents which are ordered to be filed under seal, which cannot be legibly scanned and filed electronically, shall be conventionally filed under seal and designated by the filer as “Not for Public Access Pursuant to Administrative Rule 9(G)(1)” at the time of filing. The unredacted version shall be filed on light green paper which is conspicuously marked “Not for Public Access”; and a redacted version, with confidential information deleted, shall be filed on white paper which shall be available for public access. The filer shall also electronically file a Notice of Manual Filing.

B. Cases Not Subject to Rule for Electronic Filing and Service.

Documents containing information excluded from public access pursuant to Administrative Rule 9, or documents which are ordered to be filed under seal, shall be conventionally filed under seal and designated by the filer as “Not for Public Access Pursuant to Administrative Rule 9(G)(1)” at the time of filing. The unredacted version shall be filed on light green paper which is conspicuously marked “Not for Public Access”; and a redacted version, with confidential information deleted, shall be filed on white paper which shall be available for public access.

C. The clerk shall maintain all sealed and “Not For Public Access” documents, whether in electronic or paper format, as required by Administrative Rule 9.

D. Attorneys or others who violate the rules regarding the filing of documents containing information excluded from public access shall, after a hearing, be subject to appropriate sanctions by the court having jurisdiction over the case in which the documents were filed in violation of the rules. Any person may petition the court with jurisdiction over the case for the imposition of sanctions, or the court may act *sua sponte*.

L.R.45-A.R.16-17. Electronic Filing and Service.

Pursuant to Administrative Rule 16 and Trial Rule 77, the Superior Court of Lake County and the Lake Circuit Court, are authorized to establish practices and procedures for the filing, signing, verification and service of pleadings and papers, and sending notices, by electronic means. The judges and the clerk of the Superior Court of Lake County and the Lake Circuit Court have determined that an electronic filing system would advance efficiency in the Clerk=s offices and the courts, and that members of the public and bar would be well served by such a system. Pursuant to Trial Rule 81 and Administrative Rule 16, the Superior Court of Lake County and Lake Circuit Court hereby adopt these rules establishing an electronic filing and service system in Lake County by using the Lake County Online Docket (LCOD) to file documents in the court=s case management system, CourtView, and to serve the documents upon other persons in a case. The electronic filing and service system shall be designed, constructed, and maintained so as to function in compliance with Administrative Rules 6, 7, 9, and 16.

A. Application. Unless otherwise ordered, these rules apply to all documents submitted for filing, no matter when the case was originally filed, according to the following schedule:

1. All cases in Case Types CT and PL in the Circuit Court and Rooms Six and Seven of the Civil Division commencing January 1, 2008.

2. As to other case types or courts following at least sixty (60) days prior notice, which notice(s) shall be posted in each of the Clerk=s offices and on the LCOD.

B. Official Record. The official record of the court for all documents filed under these rules is the electronic record maintained by the clerk. The clerk shall establish an electronic Record of Judgments and Orders as provided by Trial Rule 77(D).

C. Registered Users. Attorneys admitted to practice before the Supreme Court of Indiana (including those admitted *pro hac vice*) may register as users of the LCOD. A *pro se* litigant may elect to register as a user for the limited purpose of utilizing the electronic filing and service features for purposes of his or her case. Registrants will be issued a login and password upon fulfilling the registration requirements for the LCOD. *Pro se* registrants shall not knowingly permit or cause to permit their password to be used by anyone other than themselves. Attorney registrants shall not knowingly permit or cause to permit the password to be used by anyone other than an authorized agent of the registrant. Registered users will be assessed fees in accordance with the Schedule of Fees and Charges. Registered users are bound by the Registered User Agreement, which is posted on the LCOD, and registration also constitutes the following:

1. The registrant=s consent to receive service and/or notice electronically and a waiver of the right to receive service and/or notice by personal delivery or first class

mail, including notice of the entry of an order or judgment under Trial Rule 72, except with regard to documents which are excluded from electronic filing, or service of a summons and complaint, or other legal process which is required by law to be served under Trial Rules 4 - 4.17.

2. An affirmation that the registrant will endeavor to file all documents electronically.

3. The registrant is responsible for all transactions under his or her password and is obligated to notify the Web Administrator if his or her password is compromised.

D. Electronic Filing of Documents. Unless otherwise permitted by these rules or otherwise authorized by the judicial officer assigned to a particular case, all documents submitted for filing (including the original complaint, or equivalent pleading, and summons) shall be filed electronically with the clerk using the LCOD, no matter when the case was originally filed. The LCOD may be accessed via any Internet connection available to the registered user and at public access terminals located in the offices of the clerk. Attorneys who wish to be exempted from the requirement that they file electronically may file a Petition for Electronic Filing Exemption and an Electronic Filing Technical Requirements Questionnaire, which must be filed in each pending case to which these rules are applicable. The petition will be reviewed by the judicial officer assigned to that particular case and granted only upon a showing of good cause. The Electronic Filing Technical Requirements Questionnaire is appended hereto as Form 1.

1. Format. Electronically filed documents must meet the same requirements of format as documents conventionally filed pursuant to L.R.45-T.R.10-2 or other applicable Local Rule(s).

2. Appearance. Electronic filing of a Notice of Appearance shall act to establish the filing attorney as an attorney of record representing a designated party in a particular case.

3. Titles of Documents. The person electronically filing a document will be responsible for designating a title for the document at the time it is filed. The LCOD will generate the appropriate entry onto the CCS to record the filing of the document.

4. Chronological Case Summary Entry Forms (CCS Entry Forms). Separate CCS Entry Forms shall not be submitted. The LCOD shall make an appropriate entry upon the CCS whenever any document is filed electronically.

5. Citations and Hyperlinks. Electronically filed documents may contain hyperlink references to an external document as a convenient mechanism for accessing material cited in the document. Filers wishing to insert hyperlinks into documents shall continue to use the traditional method of citation to authority in addition to the hyperlink

provided. The hyperlink is merely a convenience to the court and the material referenced is extraneous to the file and not a part of the court=s record.

6. Attachments and Exhibits. All documents which form part of a single submission and which are being filed at the same time and by the same filer may be electronically filed together under one document filing, e.g., the motion, supporting affidavits, memorandum in support, designation of evidence, exhibits.

Large documents which do not exist in an electronic format shall be scanned into .pdf format and filed electronically as separate attachments. A scanner is available in each clerk=s office for use by the public and the bar in scanning and saving image files if needed.

7. Filings Requiring Leave of Court. In order to file a document which requires leave of court, such as an amended pleading or a document to be filed late, the proposed document shall be attached as an exhibit to a motion.

8. Form Orders. Proposed orders, which are submitted for the court=s convenience under L.R.45-T.R.5-3 or other applicable Local Rule(s), shall be submitted as attachments to motions.

9. Confidential Documents. Documents containing information excluded from public access under Administrative Rule 9, or governed by an order for the sealing of records, which can be filed electronically shall be designated by the filer as “Not for Public Access Pursuant to Administrative Rule 9(G)(1)” at the time of filing on the LCOD. The LCOD shall permit only the Judge, the clerk, and attorneys or parties in a particular case to view the confidential documents in the case. Such confidential documents or information shall be served upon the parties in accordance with the applicable Indiana Rules of Court and local rules for filing and service. The Judge may permit additional persons to view the confidential documents in a case pursuant to Administrative Rule 9(I).

E. Conventional Filing of Documents. A conventionally filed document is one presented to the clerk or to a party in paper or other non-electronic, tangible format. Unless specifically authorized by the court, only the following documents may be filed conventionally and not electronically:

1. Exhibits and other documents that cannot be converted to a legible electronic form, such as videotapes, x-rays, and similar materials. Whenever possible, the filer is responsible for converting filings to an electronic form. If electronic filing is not possible, the filer shall electronically file a *Notice of Manual Filing* as a notation to be placed on the CCS that filings are being held in the clerk=s office in paper. The filer shall serve the *Notice of Manual Filing* and the documents in accordance with the Indiana Rules of Civil Procedure and applicable Local Rule(s); and shall file a certificate of service. A *Notice of Manual Filing* form is appended hereto as Form 2.

2. Documents delivered to the clerk by *pro se* litigants. Documents filed by *pro se* litigants who have not elected to become registered users may be presented in the clerk's office for filing. Such documents shall then be converted to an image document by the clerk. The clerk shall thereupon electronically file and serve such documents upon each registered user of record in that case; and, the filer shall also conventionally serve these documents upon opposing attorneys or parties who are not registered users in accordance with the Indiana Rules of Civil Procedure and applicable Local Rule(s); and, shall also file a certificate of service. After completion of scanning and filing, the original paper documents shall remain in the custody of the *pro se* litigant who has not elected to become a registered user.

If the original documents cannot be scanned into a legible electronic document, then the originals shall be placed into the case file and a notation of that action shall be placed onto the CCS; and, the filer shall also conventionally serve these documents in accordance with the Indiana Rules of Civil Procedure and applicable Local Rule(s); and, shall also file a certificate of service.

3. Documents mailed to the clerk by *pro se* litigants. Documents received by the clerk in the mail from *pro se* litigants who have not elected to become registered users shall be scanned and electronically filed by the clerk. The clerk shall thereupon serve such documents upon each registered user of record in that case; and, the filer shall also conventionally serve these documents in accordance with the Indiana Rules of Civil Procedure and applicable Local Rule(s); and, shall also file a certificate of service. After scanning, the originals shall be returned to the filer, if a return envelope is provided. If no return envelope is provided, the original documents shall be discarded.

If the original documents cannot be scanned into a legible electronic document, then the originals shall be placed into the case file and a notation of that action shall be placed onto the CCS. The filer shall also conventionally serve these documents in accordance with the Indiana Rules of Civil Procedure and applicable Local Rule(s); and, shall also file a certificate of service.

4. Confidential Documents. Documents containing information excluded from public access under Administrative Rule 9, or governed by an order for the sealing of records, which cannot be legibly scanned and filed electronically, shall be conventionally filed under seal and designated by the filer as "Not for Public Access Pursuant to Administrative Rule 9(G)(1)." Only the Judge, the clerk, and attorneys or parties in a particular case may view the confidential documents in the case. The Judge may permit additional persons to view the confidential documents in a case pursuant to Administrative Rule 9(I). Such confidential documents or information shall be served upon the parties in accordance with the applicable Indiana Rules of Court and local rules for filing and service of conventional documents.

5. Notice of Manual Filing. Parties making a conventional filing shall file electronically, in place of the conventionally filed document, a Notice of Manual Filing

setting forth the reasons why the document could not be filed electronically. The conventionally filed documents must be presented to the clerk within 24 hours after the electronic submission of the Notice of Manual Filing. A paper copy of the electronically filed Notice of Manual Filing must accompany the component at the time of conventional filing.

6. Titles of Documents. The person conventionally filing a document will be responsible for designating a title for the document at the time it is filed.

7. Chronological Case Summary Entry Forms (CCS Entry Forms). Separate CCS Entry Forms shall not be submitted. The clerk shall make an appropriate entry upon the CCS whenever any document is filed conventionally.

F. Service of Documents.

1. Service of Process. A party may not electronically serve a summons or other process and complaint or equivalent pleading, but instead must perfect service according to Trial Rules 4 B 4.17.

a. Service by Sheriff. The copies of the complaint or equivalent pleading and summons or other process, or any other documents such as an order to appear, necessary for service by sheriff shall be printed by the office of the clerk. The copies of the complaint and summons, or other documents, shall be forwarded to the sheriff for service and return. The return of service shall be scanned into electronic image by the clerk for entry into the case management system and the paper original may then be discarded.

b. Service by Certified Mail. The clerk will electronically issue a summons or other process for service by certified mail, and the summons or other process will be printed and served by certified mail by the party or attorney causing the documents to issue. Upon receipt of the acknowledgment of receipt of service, the filer shall scan and file the return receipt in the LCOD and retain the original receipt. The return of service shall also be entered into the case management system electronically.

2. Service of Other Documents. The LCOD will electronically serve a copy of each electronically filed document upon each registered user of record in that case. The LCOD will generate a Notice of Electronic Filing and Service@ when any document is filed and served. This notice represents proof of filing and service of the document on registered users of record in that case. The filer shall not be required to conventionally serve any document on any party receiving electronic service.

The filer shall also conventionally serve those parties not designated or able to receive electronic notice or service but who are nevertheless entitled to notice of said pleading or other document in accordance with the Indiana Rules of Civil Procedure and applicable Local Rule(s). In such cases, the filer shall also file a certificate of service, as appropriate.

G. Signatures.

1. Signature of Registered User. The electronic filing of a document which is required to be signed shall constitute the filer=s representation under Trial Rule 11. Unless the electronically filed document has been scanned and shows the filer=s original signature, the signature of the filer shall be indicated by As/Attorney=s Name@, or As/Party=s Name@ in the case of a *pro se* litigant, on the line where the signature would otherwise appear.

2. Signatures on Jointly Signed or Filed, Verified or Other Documents. In the case of a stipulation, agreed order, jointly signed motion or other document which needs to be signed by two (2) or more persons, or in the case of documents which must contain original signatures and which require verification or an unsworn declaration under rule or statute, the signatures may be indicated by either:

- a. submitting a scanned copy of the originally signed document; or,
- b. submitting the document with the use of As/Name@ in the signature block(s) where the original signature(s) appear(s) in the original document; provided, however, that the filer shall first obtain the physical signature of all persons necessary.

The filer shall retain the original executed document.

H. Orders and Judgments. All orders and judgments shall be entered or filed electronically by a judicial officer assigned to the case.

1. Administrative Entries. The judicial officer may direct the issuance of administrative entries which are routine in nature (e.g., setting or continuing dates) by way of a text entry upon the Chronological Case Summary (CCS). In such a case, the signature of the judicial officer is not required, no further document will issue and the CCS entry shall indicate that the court will issue no further written order.

2. All Other Orders and Judgments. In all other cases, unless the original document has been scanned and shows the signature(s) of the judicial officer(s), the signature(s) of the judicial officer(s) shall be indicated by As/Judicial Officer=s Name@ on the line where the signature(s) would otherwise appear; and, shall carry the same weight and authority as a written order signed by the judicial officer(s). Judicial officers shall not knowingly permit or cause to permit their passwords to be used by anyone other than an agent authorized in writing by the judicial officer. Such written authorization, or a revocation of such authorization, shall be filed with the clerk. Whenever appropriate, the clerk shall place a hardcopy version of any designated order or judgment in the Court=s Record of Judgments and Orders, pursuant to Trial Rule 77(D).



3. Service. The LCOD will electronically serve a copy of each order or judgment upon each registered user who has appeared in the case. All others of record will be served with a hardcopy version by first class mail in accordance with the provisions of Trial Rule 72(D).

I. Time of Filing. Filing electronically does not alter any filing deadlines or any time computation pursuant to the Indiana Rules of Civil Procedure or applicable Local Rule(s). A document is deemed filed at the date and time it is received by the LCOD server. Filing must be completed before midnight local time in order to be considered filed that day. Lake County observes Central Time and electronic filers are strongly urged to file documents during hours when the LCOD help line is available, from 9:00 a.m. to 4:00 p.m. local time, although documents can be filed electronically 24 hours a day.

In the event of complete failure of the LCOD to accept documents from all electronic filers for a period of in excess of three (3) hours, as determined by the Web Administrator, all filing deadlines in all cases subject to electronic filing shall be extended until 6:00 p.m. of the first business day following the day the LCOD returns to operation. The date, time and duration of such complete failure, as well as the time and date of the return to operation, shall be posted on the LCOD as soon as possible.

J. Technical Failures. If a registered user is unable to file a document in a timely manner due to technical difficulties in the LCOD, the registered user must file a document with the court as soon as possible notifying the court of the inability to file the document. A sample document titled *Declaration that Party was Unable to File in a Timely Manner Due to Technical Difficulties* is attached hereto as Form 3. Delayed filings shall be rejected unless accompanied by the declaration attesting to the filer=s failed attempts to file electronically at least two times, separated by at least one hour, after noon on each day of delay due to such technical failure.

K. Retention of Documents in Electronically Filed Cases.

Registered users must retain signed copies of electronically filed documents until two (2) years after all time periods for appeals expire. Documents that are electronically filed and require original signatures other than that of the registered user must be maintained in paper form. On request of the court, the registered user must provide original documents for review.

Originals of documents filed electronically which require scanning (e.g. documents that contain signatures, such as affidavits) must be retained by the filer and made available, upon request, to the court and other parties for a period of two (2) years following the expiration of all time periods for appeals.

The clerk shall maintain all filed documents in accordance with the Administrative Rules 6 and 7 and all other applicable law.

L. Fees and Charges. The clerk shall collect all filing and electronic system fees due at the time of the commencement of a case or appearance in a case. Persons who have been determined by court order to be indigent in a case shall not be required to pay fees for electronic filing or service in that case. In the case of registered users, all fees due shall be collected via a credit card charge to each registered user=s designated credit card at the time of filing.

Conventional copies and certified copies of documents may be purchased at the offices of the clerk during regular business hours and upon payment of the customary copying fees prescribed by law.

The fees so collected shall be collected, maintained, and accounted for pursuant to Lake County Ordinance and all existing procedures as approved by the Indiana State Board of Accounts.

M. Public Access to the LCOD. Public remote access to documents filed through the LCOD shall be available through the Public Access via the Internet provided by the LCOD. Individuals shall also have access at terminals located in each of the offices of the clerk, during regular business hours.